

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

HUSSEIN S. HUSSEIN,

Plaintiff,

v.

GLENN MILLER,

Defendant.

3:06-cv-0710-LRH-RAM

ORDER

Before the court is plaintiff Hussein S. Hussein's ("Hussein") emergency motion for disqualification of District Judge Larry R. Hicks ("Judge Hicks") filed on August 2, 2010. Doc. #38.¹ Defendant Glenn Miller ("Miller") filed an opposition (Doc. #42) to which Hussein replied (Doc. #43).

I. Legal Standard

Recusal is governed by 28 U.S.C. §§ 144 and 455. Under section 144, a party seeking recusal must set forth, in an affidavit, facts and reasons for the belief that bias or prejudice of the district judge exists. *See* 28 U.S.C. § 144. The standard for recusal in sections 144 and 455 is "whether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *United States v. Studley*, 783 F.2d 934, 939 (9th Cir.

¹ Refers to the court's docket entry number.

1 1986). The alleged prejudice must result from an extrajudicial source; a judge's prior adverse ruling
2 is not sufficient cause for recusal. *Id.*

3 **II. Discussion**

4 In his motion for disqualification, Hussein argues that this court should be disqualified from
5 this action because of the court's past employment as a partner with the law firm of McDonald
6 Carano Wilson LLP ("MCW"), counsel for defendants in other civil actions filed by Hussein
7 including *Hussein v. University and Community College System of Nevada, et al.*, 3:04-cv-0455-
8 JCM-GWF; and *Hussein v. Lilley, et al.*, 3:05-cv-0076-JCM-GWF. Hussein argues that there is a
9 conflict of interest in this action because MCW "ghost-authored" several of the legal documents
10 proffered by defendants.

11 The court finds that Hussein's allegations of involvement by the MCW firm and related
12 prejudice are without merit. First, the court's prior employment with a firm who is not a party in
13 this action, or counsel of record to a party in this action, does not establish any bias or prejudice. It
14 is axiomatic that prior to taking the bench, federal judges work as attorneys in the public and
15 private sectors. Second, Hussein has failed to provide any evidence that MCW has a role in this
16 action or is ghost-writing documents for defendants' counsel.

17 Additionally, Hussein argues that Judge Hicks has a personal bias against him because the
18 court affirmed Magistrate Judge Valerie P. Cooke's ("Magistrate Judge Cooke") various reports
19 and recommendations in another of Hussein's actions, *Hussein v. Ersek*, 3:07-cv-0056-LRH-VPC,
20 and denied his request for disqualification of the magistrate judge on the basis that she was also a
21 former partner of MCW. Although Hussein is unhappy with the orders adverse to him, which is
22 understandable, a judge's prior adverse ruling is not sufficient cause for recusal. *See Studley*,
23 783 F.2d at 939.

24 Therefore, based on the record before the court and the pleadings and documents on file in
25 this matter, the court finds that Hussein has failed to demonstrate any conduct by this court, or
26

1 extrajudicial influence or relationship, that would lead a reasonable person to conclude that the
2 impartiality of this court might reasonably be questioned. *See* 28 U.S.C. § 455(a). In the absence of
3 a legitimate reason to recuse, a judge should participate in all cases assigned. *United States v.*
4 *Holland*, 510 F.3d 909, 912 (9th Cir. 2008). Accordingly, the court shall deny Hussein's motion for
5 disqualification.

6
7 IT IS THEREFORE ORDERED that plaintiff's motion for disqualification (Doc. #38) is
8 DENIED.

9 IT IS FURTHER ORDERED that plaintiff's motions for leave to file a late response
10 (Doc. ##36, 37) are DENIED.

11 IT IS SO ORDERED.

12 DATED this 18th day of December, 2012.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE